



**STATE OF ARIZONA**  
**DEPARTMENT OF INSURANCE**

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**CHARLES R. COHEN**  
Director of Insurance

Circular Letter 1999-6

**TO:** All Rate Service Organizations, Property and Casualty Insurers, Insurance Trade Associations, and Other Interested Parties

**FROM:** Charles R. Cohen  
Director of Insurance

**DATE:** August 2, 1999

**RE:** **Loss Cost Filings**

In 1998, Senate Bill 1024 amended the Arizona Revised Statutes, Title 20, Chapter 2, Article 4.1 relating to Open Competition Rates. The amendment expressly permits the filing of loss cost filings, loss cost adjustments and loss cost modification factors (without the filing of final rate pages) as an alternative to the filing of final rates under the open competition rating laws. Prior to the amendment, loss cost filings were permitted, but the law required the filing of final rate pages as well. Also prior to the amendment, based on the language of A.R.S. § 20-387 expressly permitting insurers to modify filings by rate service organizations, the Arizona Department of Insurance (Department) permitted insurers who had designated rate service organizations to make rate filings on their behalf to nonadopt or delay adoption of the rate service organizations' loss cost filings and final rate page filings. Unfortunately, the 1998 amendments appeared to eliminate the nonadopt or delay option for an insurer whose rate service organization made a loss cost filing with the Department. A.R.S. § 20-385(A), as amended, provides:

If a rate service organization files prospective loss costs on behalf of its member insurers with the director, each member insurer shall file, on a form approved by the director, the loss cost adjustment and loss cost modification factors applicable to the prospective loss costs filed by the rate service organization. (Emphasis Added).

Consequently, the Department issued Circular Letter 1998-9 dated August 28, 1998, and an unnumbered memorandum to the industry dated June 1, 1999 explaining that the amendment requires an insurer whose rate service organization has made a loss cost filing with the Department to file its own loss cost adjustment and loss cost modification factors within 30 days after the effective date of the rate service organization's loss cost filing, and that nonadoption or delay of adoption is no longer an option.

Since the issuance of the June 1, 1999 memorandum, the Department has been provided with valuable feedback on this issue, and has reconsidered its interpretation of the amendments. I am now rescinding the June 1, 1999 memorandum in its entirety, and Circular Letter 1998-9 to the extent it suggests that insurers may not nonadopt or delay adoption of loss cost filings by rate service organizations.

I am taking this action because I believe that elimination of the option to nonadopt or delay adoption of rate service organizations' loss cost filings creates significant, unintended difficulty and administrative burden for insurers, rate service organizations and the Department. Numerous insurers would be rendered technically out of compliance with legal requirements to adhere to filed rates. The Department would be required to disapprove numerous insurer filings to delay or nonadopt rate service organization loss cost filings. Numerous resource-consuming appeals and administrative proceedings might ensue. Membership and subscribership in rate service organizations could be discouraged, thereby potentially impairing the credibility of open competition rates. These and other resultant disruptions could create expense that ultimately inflates rates. Further, there is no apparent consumer protection or other salutary purpose served by eliminating the option to nonadopt or delay adoption of rate service organization loss cost filings. I do not believe the legislature intended to impact this aspect of the property and casualty rate filing system. In fact, I believe the spirit of the amendment is to streamline the open competition rate filing process. The language of the amendment is simply imprecise.

Therefore, I am exercising my authority and discretion to interpret and apply the Insurance Code sensibly and in the best interests of insurance consumers. Insurers affiliated with rate service organizations may continue to nonadopt or delay adoption of rate service organizations' loss cost filings as historically permitted by the Department pursuant to A.R.S. § 20-387.